

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

MARILYN YVETTE COOK,
Plaintiff,
v.
SACRAMENTO COUNTY, et al.,
Defendants.

No. 2:21-CV-0893-DMC-P

ORDER

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the Court is Plaintiff's original complaint, ECF No. 1.

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if it: (1) is frivolous or malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief from a defendant who is immune from such relief. See 28 U.S.C. § 1915A(b)(1), (2). Moreover, the Federal Rules of Civil Procedure require that complaints contain a "... short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). This means that claims must be stated simply, concisely, and directly. See McHenry v. Renne, 84 F.3d 1172, 1177 (9th Cir. 1996) (referring to Fed. R. Civ. P. 8(e)(1)). These rules are satisfied if the complaint gives the defendant fair notice of the plaintiff's claim and the grounds upon which it

1 rests. See Kimes v. Stone, 84 F.3d 1121, 1129 (9th Cir. 1996). Because Plaintiff must allege
2 with at least some degree of particularity overt acts by specific defendants which support the
3 claims, vague and conclusory allegations fail to satisfy this standard. Additionally, it is
4 impossible for the Court to conduct the screening required by law when the allegations are vague
5 and conclusory.

6 7 **I. PLAINTIFF'S ALLEGATIONS**

8 Plaintiff names Sacramento County and Sheriff Scott R. Jones as defendants. ECF
9 No. 1, pg. 2. Plaintiff alleges the following:

10 My constitutional and inalienable rights have been violated.
11 Furthermore, I have suffered [], crimes against humanity, and war
12 crimes as a pretrial detainee at Sac. Co. main jail. [] The
13 disadvantages of federalism is the states and local governments can
14 block important national policies such as civil rights (2) allows the
power of local interest to go unchecked and allows for [] variations
on how people are treated. Sac. Co. jail has treated me and other
pretrial detainees as if we are enemies of the state when we are not.

15 Id. at 3.

16 17 **II. DISCUSSION**

18 Plaintiff complaint is insufficient. Specifically, Plaintiff fails to allege an actual
19 connection or link between the actions of the named Defendants and the alleged deprivations.

20 To state a claim under 42 U.S.C. § 1983, the plaintiff must allege an actual
21 connection or link between the actions of the named defendants and the alleged deprivations. See
22 Monell v. Dep't of Social Servs., 436 U.S. 658 (1978); Rizzo v. Goode, 423 U.S. 362 (1976). "A
23 person 'subjects' another to the deprivation of a constitutional right, within the meaning of
24 § 1983, if he does an affirmative act, participates in another's affirmative acts, or omits to perform
25 an act which he is legally required to do that causes the deprivation of which complaint is made."
26 Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978). Vague and conclusory allegations
27 concerning the involvement of official personnel in civil rights violations are not sufficient. See
28 Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982). Rather, the plaintiff must set forth

specific facts as to each individual defendant's causal role in the alleged constitutional deprivation. See Leer v. Murphy, 844 F.2d 628, 634 (9th Cir. 1988).

Here, Plaintiff does not even mention Defendant Jones in Plaintiff's supporting facts. Additionally, there is no mention of any actions taken by any person or entity in Plaintiff's supporting facts. Plaintiff will be provided an opportunity to amend. Upon amending, Plaintiff should keep in mind the following: as to each Defendant, Plaintiff must allege which Defendant took what action that caused which specific constitutional violation.

Further, Plaintiff references a complaint that was allegedly mailed to the U.S. clerk on April 29, 2021. Plaintiff is advised that the Court cannot refer to a prior pleading in order to make Plaintiff's complaint complete. See Local Rule 220. A complaint must be complete in itself without reference to any prior pleading. Id.

III. CONCLUSION

Because it is possible that the deficiencies identified in this order may be cured by amending the complaint, Plaintiff is entitled to leave to amend prior to dismissal of the entire action. See Lopez v. Smith, 203 F.3d 1122, 1126, 1131 (9th Cir. 2000) (en banc). Plaintiff is informed that, as a general rule, an amended complaint supersedes the original complaint. See Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992). Thus, following dismissal with leave to amend, all claims alleged in the original complaint which are not alleged in the amended complaint are waived. See King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987). Therefore, if Plaintiff amends the complaint, the Court cannot refer to the prior pleading in order to make Plaintiff's amended complaint complete. See Local Rule 220. An amended complaint must be complete in itself without reference to any prior pleading. See id.

If Plaintiff chooses to amend the complaint, Plaintiff must demonstrate how the conditions complained of have resulted in a deprivation of Plaintiff's constitutional rights. See Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980). The complaint must allege in specific terms how each named defendant is involved and must set forth some affirmative link or connection between each defendant's actions and the claimed deprivation. See May v. Enomoto,

633 F.2d 164, 167 (9th Cir. 1980); Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978).

Finally, Plaintiff is warned that failure to file a first amended complaint within the time provided in this order may be grounds for dismissal of this action. See Ferdik, 963 F.2d at 1260-61; see also Local Rule 110. Plaintiff is also warned that a complaint which fails to comply with Rule 8 may, in the Court's discretion, be dismissed with prejudice pursuant to Rule 41(b). See Nevijel v. North Coast Life Ins. Co., 651 F.2d 671, 673 (9th Cir. 1981).

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's original complaint is dismissed with leave to amend; and
2. Plaintiff shall file a first amended complaint within 30 days of the date of service of this order.

Dated: January 7, 2022



DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE